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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,188	01/02/2002	Werner Seipel	H 3980 PCT/US	2544

23657 7590 04/20/2005

COGNIS CORPORATION
PATENT DEPARTMENT
300 BROOKSIDE AVENUE
AMBLER, PA 19002

EXAMINER

WEBMAN, EDWARD J

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/936,188

Applicant(s)

SEIPEL ET AL.

Examiner

Edward J. Webman

Art Unit

1617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-30 is/are pending in the application.
- 4a) Of the above claim(s) 15,17,22 and 24-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/02/02.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 1617

Applicant's election with traverse of fatty acid (polyglycol) esters, fatty alcohol (polyglycol) ethers and alkylene glycols in the reply filed on 2/17/04, 8/16/04, 2/24/05 is acknowledged. The traversal is on the ground(s) that different groups shown between groups. This is not found persuasive because there is only one group but a lack of unity between the species.

The requirement is still deemed proper and is therefore made FINAL.

Claims 11-14, 16, 18-22, 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pereira et al in view of Reng et al and Chaudhuri et al.

Pereira et al teach a composition comprising a fatty acid ethoxylate in a non-aqueous composition, Emollients such as mineral oil are disclosed (column 7 lines 18-20). Other suitable active agents are specified (column 6 lines 35-42) Lotions are disclosed (column 8 example 3).

Reng et al teach a pearlescent composition comprising fatty acid glycol ester (formular I) and a nonionic surfactant (formula II), ethylene glycols are specified (column 2 lines 52-59).

It would have been obvious to add the composition of Reng et al to that of Pereira et al to achieve the beneficial effect of pearlescence. As to the claimed ester and ether, they are embodied in formulas I and II respectively in Pereira et al. As to the claimed castor oil, Chaudhuri et al teaches its equivalence to mineral oil as an emollient (column 3 lines 43, 49, 57).

As to the claimed percentages, it is within the skill of the art to select such parameters for optimum results absent a showing that they are critical to achieving the invention. In re Bosch 205 USPQ 215 (CCPA 1980).

Claims 11-14, 16, 18-22, 24-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 11, it is unclear as to whether the "two or more surfactants" refer to one each from (a¹) and (a²). Or that both can be from (a1) or (a2). IN claim 12 one is chosen from (a1) and a second from either (a2) and (a4), contradicting the selection in claim 11. Similarly, in claim 13 one is chosen from (a1) and a second from (a2) or (a4).

No claims allowed.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Webman whose telephone number is (571) 272-0633. The examiner can normally be reached on Monday to Friday 9 Am 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Padmanabhan can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

E. Webman/LR
March 22, 2005


**EDWARD J. WEBMAN
PRIMARY EXAMINER
GROUP 1500**